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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,443	05/23/2006	Joachim Moormann	RO4245US (#90568)	2527
28672 7590 08/02/2010 D. PETER HOCHBERG CO. L.P.A. 1940 EAST 6TH STREET CLEVELAND, OH 44114				
EXAMINER				
CLAYTOR, DEIRDRE RENEE				
ART UNIT		PAPER NUMBER		
1627				
MAIL DATE		DELIVERY MODE		
08/02/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/580,443

**Applicant(s)**

MOORMANN ET AL.

**Examiner**

Renee Claytor

**Art Unit**

1627

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 12 July 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
see below.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

/SREENI PADMANABHAN/  
Supervisory Patent Examiner, Art Unit 1627

Applicant's argue over the 35 USC 102 (b) rejection over Vonin et al. In particular, it is argued that schizophrenic psychosis is a disease that is fundamentally different from schizophrenia. Applicants define schizophrenic psychosis as a distortion of reality and disturbances of thought and language, as well as withdrawal from social contacts as well as the blocking of thought processes, disorders of emotional life and drive, loss of reality and the "ego disorder". Applicants have argued that Vonin et al. fails to teach or describe the treatment of schizophrenic psychosis.

It is unclear how schizophrenic psychosis is distinct from schizophrenia. Schizophrenic psychosis could be deemed a symptom of schizophrenia because all of the symptoms listed above (described by Applicant) are all symptoms of schizophrenia. A review through the literature does not show that schizophrenic psychosis as defined by Applicant is a fundamentally different disorder from schizophrenia. Though Vonin et al. does not use the term schizophrenic psychosis, Vonin does teach that the patient population as schizophrenic and as a whole involved a decreased or absent initiative and emotional detachment with quantitatively and qualitatively impoverished speech which was observed in conjunction with an inadequately stimulated activity level which overlaps with the definition of schizophrenic psychosis provided by Applicants (page 3, last full paragraph).

Applicants present arguments regarding the mechanism of action of schizophrenic psychosis to distinguish it from the mechanism of action taught in Vonin et al. Applicants arguments are noted; however, the claims are drawn to a method of treating schizophrenic psychosis (which the Examiner has established overlaps with schizophrenia) comprising administration of deoxyepaniline. The mechanism of action is not a patentable distinction.

Applicants present arguments over the 35 USC 103 rejection over Vonin et al. in view of Opitz et al. In particular, Applicant's put forth the same arguments over Vonin et al. which were addressed above. Applicants present an article by Gamaleia; however, as this was not presented before and a reason was not given why it was not presented before, the article is not being considered. Applicants further argue that a medical treatment of schizophrenia being accompanied with apathoabulic symptoms, it would be advised to enhance dopamine catabolism. Again, the arguments presented are considered; however, the arguments are addressing mechanism of action which is not a patentable distinction.